

# EXHIBIT 1

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05/15/2023

**Judge Assigned**

CAUSE ASSIGNED TO JUDGE JOHN R. LASATER (DIV15) FOR HEARING AND DETERMINATION PER PRESIDING JUDGE'S ADMINISTRATIVE ORDER 23-1

05/09/2023

**Family Member/Roommate Served**

Document ID - 23-SMCC-2459; Served To - THOMAS LEVINSON; Served Date - 04/24/2023; Served Time - 00:00:00; Service Type - SP; Reason Description - SERV; Service Text -

**Agent Served**

Document ID - 23-SMCC-2458; Served To - null ST LOUIS DESIGN AND BUILD, LLC; Served Date - 04/24/2023; Served Time - 00:00:00; Service Type - SP; Reason Description - SERV; Service Text -

**Note to Clerk eFiling**

**Filed By:** EDWIN V BUTLER

**Notice of Service**

Process Perfected Thomas Levinson.

**Filed By:** EDWIN V BUTLER

**On Behalf Of:** DANIEL A HUMAN

**Notice of Service**

Process Perfected on St. Louis Design and Build.

**Filed By:** EDWIN V BUTLER

**On Behalf Of:** DANIEL A HUMAN

03/27/2023

**Summons Issued-Circuit**

Document ID: 23-SMCC-2459, for LEVINSON, THOMAS.Summons Attached in PDF Form for Attorney to Retrieve from Secure Case.Net and Process for Service.

**Summons Issued-Circuit**

Document ID: 23-SMCC-2458, for ST LOUIS DESIGN AND BUILD, LLC.Summons Attached in PDF Form for Attorney to Retrieve from Secure Case.Net and Process for Service.

03/14/2023

**Note to Clerk eFiling**

**Filed By:** EDWIN V BUTLER

**Partial Payment**

Memorandum of additional fees paid.

**Filed By:** EDWIN V BUTLER

**Note to Clerk eFiling**

**Filed By:** EDWIN V BUTLER

**Partial Payment**

Memorandum of fees paid.

**Filed By:** EDWIN V BUTLER

**On Behalf Of:** DANIEL A HUMAN

03/07/2023

**Judge/Clerk - Note**

NO SUMMONS ISSUED DUE TO MISSING FEES. THE TOTAL FOR SERVICE BY ST LOUIS COUNTY SHERIFF IN CIRCUIT-CIVIL FOR 1 DFT IS \$141.50 (\$105.50 FILING FEE + \$36 SERVICE FEE). THE TOTAL ALREADY PAID IS \$102.00 AND THE TOTAL DUE IS \$39.50. PLEASE E-FILE A SERVICE MEMO WITH THE REMAINING \$39.50 FEES SO THE CASE CAN BE FURTHER PROCESSED. ONCE THE CORRECTION IS E-FILED, CONTACT THE CLERK AT 314-615-8470.

03/01/2023

**Filing Info Sheet eFiling**

**Filed By:** EDWIN V BUTLER

**Note to Clerk eFiling**

**Filed By:** EDWIN V BUTLER

**Confidential Address Filed**

Confidential Case Filing Information Sheet.

**Filed By:** EDWIN V BUTLER

**On Behalf Of:** DANIEL A HUMAN

**Pet Filed in Circuit Ct**

Original Complaint.

**Filed By:** EDWIN V BUTLER

**Judge Assigned**

DIV 21



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: NANCY WATKINS MCLAUGHLIN	Case Number: 23SL-CC00932
Plaintiff/Petitioner: DANIEL A HUMAN	Plaintiff's/Petitioner's Attorney/Address EDWIN V BUTLER 3460 HAMPTON STE 205 vs. SAINT LOUIS, MO 63105
Defendant/Respondent: ST LOUIS DESIGN AND BUILD, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Pers Injury-Other	(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: THOMAS LEVINSON

Alias:

REG AGT: JEREMY GOGEL  
4542 WEST PINE BLVD  
ST LOUIS, MO 63108

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

27-MAR-2023

Date

Further Information:  
AD

*Jean P. Dineen*  
Clerk

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☒ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with Ken Demison - co-owner a person at least 18 years of age residing therein.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other \_\_\_\_\_

Served at 11088 Milpark Dr, STE 140 A (address)  
in St Louis (County/City of St. Louis), MO, on April 5, 2023 (date) at 12:52 P.m. (time).

Nichole E. McKinley  
Printed Name of Sheriff or Server

Nichole McKinley  
Signature of Sheriff or Server

TARA FRANZ

NOTARY PUBLIC - NOTARY SEAL  
STATE OF MISSOURI  
MY COMMISSION EXPIRES JANUARY 13, 2027  
JEFFERSON COUNTY  
COMMISSION #15632674

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on

My commission expires: 01/13/2027

Date

(date).

Notary Public

**Sheriff's Fees, if applicable**Summons \$ 75.00

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00Mileage \$ 52 (52 miles @ \$.1.00 per mile)**Total** \$ 137.00

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.





## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: NANCY WATKINS MCLAUGHLIN	Case Number: 23SL-CC00932
Plaintiff/Petitioner: DANIEL A HUMAN	Plaintiff's/Petitioner's Attorney/Address EDWIN V BUTLER 3460 HAMPTON STE 205 SAINT LOUIS, MO 63105
Defendant/Respondent: ST LOUIS DESIGN AND BUILD, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Pers Injury-Other	

SHERIFF FEE  
PAID

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: ST LOUIS DESIGN AND BUILD, LLC  
Alias:11088 MILPARK DR., STE. 140  
MARYLAND HEIGHTS, MO 63043

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

27-MAR-2023

Date

Further Information:  
AD

  
Clerk

## Sheriff's or Server's Return

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- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person at least 18 years of age residing therein.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the petition to Ken Dermison (name) Co-owner STL Design & Build (title).

☐ other \_\_\_\_\_

Served at 11088 Milpark Dr., Maryland Heights (address)  
in St. Louis County (County) City of St. Louis, MO, on April 24, 2023 (date) at 12:52 PM (time).  
Nichole E. McKintey (Printed Name of Sheriff or Server)  
Nichole E. McKintey (Signature of Sheriff or Server)

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on

My commission expires:

4/25/2023  
01/13/2027

(Date)

(date)

Notary Public

TARA FRANZ  
NOTARY PUBLIC - NOTARY SEAL  
STATE OF MISSOURI  
MY COMMISSION EXPIRES JANUARY 13, 2027  
JEFFERSON COUNTY  
COMMISSION #15632674

~~Sheriff's~~ Fees, if applicable

Summons	\$	<u>75.00</u>	
Non Est	\$		
Sheriff's Deputy Salary			
Supplemental Surcharge	\$	<u>10.00</u>	
Mileage	\$	<u>52</u>	( <u>52</u> miles @ \$. <u>1.00</u> per mile)
<b>Total</b>	\$	<u>137.00</u>	

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: NANCY WATKINS MCLAUGHLIN	Case Number: 23SL-CC00932
Plaintiff/Petitioner: DANIEL A HUMAN	Plaintiff's/Petitioner's Attorney/Address EDWIN V BUTLER 3460 HAMPTON STE 205 SAINT LOUIS, MO 63105
Defendant/Respondent: ST LOUIS DESIGN AND BUILD, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Pers Injury-Other	

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: THOMAS LEVINSON

Alias:

REG AGT: JEREMY GOGEL  
4542 WEST PINE BLVD  
ST LOUIS, MO 63108

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

27-MAR-2023

Date

Further Information:

AD

Clerk

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☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with

\_\_\_\_\_ a person at least 18 years of age residing therein.

- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

\_\_\_\_\_ (name) \_\_\_\_\_ (title).

- ☐ other \_\_\_\_\_.

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public



**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00 \_\_\_\_\_

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Twenty First Judicial Circuit

## NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

### **Purpose of Notice**

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

### **Your Rights and Obligations in Court Are Not Affected By This Notice**

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

### **Alternative Dispute Resolution Procedures**

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the “neutral,” who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

**(1) Advisory Arbitration:** A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator’s decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

**(2) Mediation:** A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

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**(3) Early Neutral Evaluation (“ENE”):** A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

**(4) Mini-Trial:** A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

**(5) Summary Jury Trial:** A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

### **Selecting an Alternative Dispute Resolution Procedure and a Neutral**

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 105 South Central Ave., 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.

CCADM73



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: NANCY WATKINS MCLAUGHLIN	Case Number: 23SL-CC00932
Plaintiff/Petitioner: DANIEL A HUMAN	Plaintiff's/Petitioner's Attorney/Address EDWIN V BUTLER 3460 HAMPTON STE 205 SAINT LOUIS, MO 63105
Defendant/Respondent: ST LOUIS DESIGN AND BUILD, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Pers Injury-Other	

SHERIFF FEE  
PAID

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: ST LOUIS DESIGN AND BUILD, LLC

Alias:

11088 MILPARK DR., STE. 140  
MARYLAND HEIGHTS, MO 63043

COURT SEAL OF



ST. LOUIS COUNTY

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in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00 \_\_\_\_\_

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

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Twenty First Judicial Circuit

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**(4) Mini-Trial:** A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

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CCADM73

IN THE  
CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI

Daniel Human, et al.,	)	
	)	
Plaintiffs.	)	
	)	
Vs.	)	No. 23SL-CC00932
	)	
St Louis Design and Build LLC et al.,	)	
	)	
Defendants.	)	

---

**Memorandum to the Clerk of the Court**

---

Comes Now the Plaintiff, Daniel A. Human, by and through his attorney Edwin V. Butler,  
and remits the remaining \$39.50 in filing and summons fees, as per the memorandum of the Clerk.

Respectfully submitted,

/s/Edwin V. Butler, Esquire  
Edwin V. Butler Mo. 32489  
Attorney At Law  
Butler Law Group, LLC  
1650 Des Peres Rd., Suite 220  
St. Louis, MO 63131  
edbutler@butlerlawstl.com  
(314) 504-0001

Attorney for the Plaintiff

Certificate of Service

I hereby certify that the above and foregoing was served electronically this 13th day of  
March 2023, via ECF/CM.

/s/Edwin V. Butler  
Edwin V. Butler

IN THE  
CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI

Daniel Human, et al.,	)	
	)	
Plaintiffs.	)	
	)	
Vs.	)	No. 23SL-CC00932
	)	
St Louis Design and Build LLC et al.,	)	
	)	
Defendants.	)	

---

**Memorandum to the Clerk of the Court**

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Comes Now the Plaintiff, Daniel A. Human, by and through his attorney Edwin V. Butler, and remits the remaining \$39.50 in filing and summons fees, as per the memorandum of the Clerk.

Respectfully submitted,

/s/Edwin V. Butler, Esquire  
Edwin V. Butler Mo. 32489  
Attorney At Law  
Butler Law Group, LLC  
1650 Des Peres Rd., Suite 220  
St. Louis, MO 63131  
edbutler@butlerlawstl.com  
(314) 504-0001

Attorney for the Plaintiff

Certificate of Service

I hereby certify that the above and foregoing was served electronically this 13th day of March 2023, via ECF/CM.

/s/Edwin V. Butler  
Edwin V. Butler

**IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI**

DANIEL HUMAN,	)	
	)	
Plaintiff,	)	Cause No.
	)	
v.	)	Division
	)	
STL DESIGN AND BUILD, LLC	)	JURY TRIAL DEMANDED
11088 Millpark Dr. Ste. 140	)	
Maryland Heights, MO 63043,	)	
	)	
Serve: JEREMY A. GOGEL,	)	
Registered Agent	)	
4542 West Pine Blvd.	)	
St. Louis, MO 63108; and	)	
	)	
THOMAS LEVINSON, CEO,	)	
STL DESIGN and BUILD, LLC, and	)	
	)	
JOSH "DOE" Telemarketer,	)	
	)	
CANCETTA, "DOE" Telemarketer,	)	
	)	
Defendants.	)	

**PETITION FOR BREACH OF TELEPHONE CONSUMER PROTECTION ACT AND  
BREACH OF MISSOURI MERCHANDISING PRACTICES ACT Chapter 407**

COMES NOW the Plaintiff, Danial A. Human, by and through his Counsel, Edwin V. Butler and the Butler Law Group, and for his Petition against Defendants STL Design and Build, LLC, Thomas Levinson, CEO of STL Design and Build, LLC, and telemarketer Josh "DOE" and Cancetta "DOE", states, alleges and avers the following:

**I. PARTIES - PLAINTIFF**

1. Plaintiff is a resident of St. Louis County, Missouri and has residential telephone service at his residence using telephone number (314) 915-2988.

2. At all times herein relevant, Plaintiff, Daniel Human or his representative (hereinafter “Plaintiff”) had telephone service at (314) 915-2988.

Plaintiff’s telephone number 9314) 915-2988 is and was at all relevant times on the National Do Not Call List.

## **II. DEFENDANTS - STL DESIGN and BUILD, LLC and THOMAS LEVINSON**

3. Defendant, STL Design and Build, LLC (hereinafter STL Design) is a Missouri Corporation located at 11088 Millpark Dr. Ste. 140, Maryland Heights, MO 63043, registered to do business in Missouri.

4. Defendant, Thomas Levinson (hereinafter Levinson), is the owner and Chief Executive Officer of STL Design and Build, LLC, and a resident of St. Louis County, Missouri. Jeremy A. Gogel and Attorney and the registered agent of STL Design and Build, LLC, a registered Missouri corporation.

5. Defendant STL Design and Build, LLC transacts business in Missouri as contemplated by RSMo. 506.500(1) and this cause of action arises out of such transactions(s).

6. Defendants, Josh and Cancetta, Telemarketers (hereinafter “Josh” and “Cancetta” are employees of STL Design and will be further identified through discovery.

## **III. ACTS OF AGENTS**

7. Whenever it is alleged in this Petition that Defendants did any act, it is meant that the Defendants performed, caused to be performed, and/or participated in the act and/or that Defendants’ officers, employees, contractors, assigns, successors, affiliates or any other agent performed or participated in the act on behalf of, for the benefit of, and/or under the authority of Defendants.

## **COUNT I DAMAGES**

COMES NOW Plaintiff, Daniel Human, and for his cause of action against Defendants states as follows:

### **A. THE TELEPHONE CONSUMER PROTECTION ACT**

8. 47 U.S.C. 227 the Telephone Consumer Protection Act (TCPA) and the promulgated thereunder regulations provides in pertinent part 64.12000[c](2) et seq which states: [c] No person or entity shall initiate any Telephone solicitation to:....(2) A residential subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the Federal Government. Such do-not-call registrations must be honored indefinitely...”

9. 47 C.F.R. 64.1200(d)(1) Written policy. Persons or entities making calls for telemarketing purposes must have a written policy, available upon demand, for maintaining a do-not-call list.

10. Under the TCPA, as interpreted by the Federal Communications Commission (“FCC”), a company on whose behalf a telephone solicitation is made bears ultimate responsibility for any violations of the TCPA. *In re DISH Network, LLC*, 28 F.C.C. Rcd. 6574, 6590 (2013).

11. Calls placed by a third party on behalf of that company are treated as if the company itself placed the call. *Id.*

12. The phone calls at issue in this case were made by and/or for the benefit of Defendant. Because these calls were made by or “on behalf” of Defendant STL Design, Defendant bears the responsibility for any violations of the TCPA, even if Defendant did not directly place the calls. Defendant is also responsible for illegal actions of its agents and is also responsible for any illegal actions conducted in the course of any joint venture with an third party.



**B. THE MISSOURI TELEMARKETING LAW**

13. Mo. Rev. Stat. 407.1076 provides in pertinent part:

It is an unlawful telemarketing act or practice for any seller or telemarketer to engage in the following conduct:

(3) Cause the telephone to ring or engage any consumer in telephone conversation repeatedly or continuously in a manner a reasonable consumer would deem to be annoying, abusive or harassing.

(4) Knowingly and willfully initiate a telemarketing call to a consumer, or transfer or make available to others for telemarketing purposes a consumer's number when that consumer has stated previously that he or she does not wish to receive solicitation calls by or on behalf of the seller unless such request has been rescinded.

14. MO Rev. 407.1104 provides in pertinent part:

1. Any person or entity who makes a telephone solicitation to any residential subscriber in this state shall, at the beginning of such solicitation, state clearly the identity of the person or entity initiating the solicitation.
2. No person or entity who makes a telephone solicitation to a residential subscriber in this state shall knowingly use any method to block or otherwise circumvent any subscriber's use of a caller identification service.

**C. THE SOLICITATION CALLS**

15. All of the calls placed were a violation of 47 U.S.C. 227 the Telephone Consumer Protection Act (TCPA) and the regulations promulgated thereunder 65.12000[c](2).

16. All of the calls placed violated MO Rev. 407.1098.

17. The following calls were placed to Plaintiff's number registered on the Do Not Call registry

- a. 1/6/23 at 9:25 am (caller identified as "Josh")
- b. 1/6/23 at 11:15 am (caller identified as "Josh")
- c. 1/6/23 at 2:15 pm (caller identified as "Josh")
- d. 1/9/23 at 9:57 (caller identified as "Cancetta (sp?)")
- e. 1/9/23 at 2:00 pm (caller identified as "Cancetta (sp?)")

**D. 'VIOLATIONS OF THE TCPA AND REGULATIONS**

18. That the telephone calls to Plaintiff made by Defendant constituted 5 violations of the Federal Telephone Consumer Protection Act 227 and following and the regulations promulgated thereunder FCC (which amended Title II of the Communications Act of 1934, 47 U.S.C. 201 seq.) which provide for \$500 statutory damages for each violation.

19. The TCPA and regulations also provide for tripling of the statutory damages for each violation of the TCPA if the Court finds that the defendant willfully or knowingly violated the statute or the regulations prescribed.

**E. VIOLATIONS OF MISSOURI CHAPTER 407**

20. Placing the five (5) calls violated MO Rev. 407.1076 which provide damages in the amount of \$5,000 per violation.

21. Placing the five (5) calls violated MO Rev. 407.1098 which states No person or entity shall make or cause to be made any telephone solicitation to any residential subscriber in this state who has given notice to the attorney general, in accordance with rules promulgated pursuant to section 407.1101 of such subscriber's objection to receiving telephone solicitations. Chapter 407.1107 provides for up to \$5,000 in damages for each knowingly violation.

22. Placing the calls violated MO Rev. 407.1104, which provide damages in the amount of up to \$5,000 per violation.

**COUNT TWO Injunctive Relief**

23. Count one is restated as if set forth herein.

24. As provided by 47 U.S.C. 227(b)(3)(A) Defendants or their agent(s) should be permanently enjoined from violating the provisions of the TCPA.

**WHEREFORE**, Plaintiff, prays judgment against Defendants, STL Design and Build, LLC in the amount of \$25,000 (five violations x \$5,000) for violation of MO Rev. 407 and \$25,000 (five violations x \$5,000) for the TCPA violations as provided by 47 U.S.C. 227 for a total of \$50,000.00 and that Defendants be enjoined from making telephone calls in violation of the Missouri statutes and TCPA, plus court costs and for such other and further relief as this Court deems proper.

Respectfully submitted,

/s/Edwin V. Butler, Esquire  
Edwin V. Butler Mo. 32489  
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(314) 504-0001

Attorney for the Plaintiff

**Certificate of Service**

I hereby certify that the above and foregoing Answer was served electronically this 28th day of February 2023, on Attorney Gogel for the Defendants and via ECF/CM filing. This document was also scanned for viruses using Windows Defender 2022 and is free of viruses and malware.

/s/Edwin V. Butler  
Edwin V. Butler